

03:45PM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

February 15, 2024

TRANSCRIPT EXCERPT - DIRECT & REDIRECT EXAMS OF DALE KASPRZYK
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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And

UNITED STATES DEPARTMENT OF JUSTICE
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PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

1 **LAW CLERK:** **REBECCA FABIAN IZZO, ESQ.**

2 **COURT DEPUTY CLERK:** **COLLEEN M. DEMMA**

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8 * * * * * * *

9 (Excerpt commenced at 3:45 p.m.)

10 (Jury is present.)

03:45PM 11 **THE COURT:** You can call your next witness, please.

03:45PM 12 **MR. DICKSON:** The government calls Dale Kasprzyk.

03:45PM 13
03:46PM 14 **D A L E K A S P R Z Y K**, having been duly called and sworn,
03:46PM 15 testified as follows:

03:46PM 16 **MR. DICKSON:** May I proceed, Judge?

03:46PM 17 **THE COURT:** You may.

03:46PM 18
03:46PM 19 **DIRECT EXAMINATION BY MR. DICKSON:**

03:46PM 20 Q. Good afternoon, sir.

03:46PM 21 A. Good afternoon.

03:46PM 22 Q. Will you please introduce yourself to the members of the
03:46PM 23 jury?

03:46PM 24 A. Hi. My name is Dale Kasprzyk.

03:46PM 25 Q. Where do you live?

03:46PM 1 A. I currently live in Estero, Florida.

03:46PM 2 Q. How long have you lived there?

03:47PM 3 A. Three and a half months.

03:47PM 4 Q. Prior to living in Florida, where did you live?

03:47PM 5 A. I spent most of my life here in Western New York. Most
03:47PM 6 recently, I lived in Orchard Park, New York.

03:47PM 7 Q. What do you do for a living, Mr. Kasprzyk?

03:47PM 8 A. Currently, I'm the head of the financial investigations
03:47PM 9 unit for M&T Bank.

03:47PM 10 Q. How long have you been doing that?

03:47PM 11 A. Approximately ten years.

03:47PM 12 Q. I want to take you back to 2009, Mr. Kasprzyk. Where
03:47PM 13 were you working in 2009?

03:47PM 14 A. I was working for the Drug Enforcement Administration
03:47PM 15 assigned to the Buffalo resident office.

03:47PM 16 Q. And if I call the Drug Enforcement Administration the
03:47PM 17 DEA, will you understand what I'm talking about?

03:47PM 18 A. Yes, sir.

03:47PM 19 Q. Okay. Back in 2009, while you were with the DEA, what
03:47PM 20 was your job?

03:47PM 21 A. At that time, I was a group supervisor.

03:47PM 22 Q. What's a group supervisor?

03:47PM 23 A. A group supervisor works as a manager for a team of
03:48PM 24 agents and task force agents.

03:48PM 25 Q. What kinds of responsibilities does a group supervisor

03:48PM 1 have?

03:48PM 2 A. I work with the agents, I ensure that they're conducting
03:48PM 3 investigations, that they're developing informants,
03:48PM 4 developing cases, cases that would target drug traffickers
03:48PM 5 who are violating the Controlled Substances Act.

03:48PM 6 Q. How many special agents were you responsible for
03:48PM 7 supervising back in 2009?

03:48PM 8 A. I would say the -- the overall size of the group was
03:48PM 9 around 12 or 13, but that included a combination of both
03:48PM 10 agents and task force agents. I -- I -- I'm thinking back, I
03:48PM 11 would say probably five or six of that group were agents.

03:48PM 12 Q. Did that particular group that you supervised, did it
03:48PM 13 have a number associated with it?

03:48PM 14 A. I believe it was D-57, Delta 57.

03:49PM 15 Q. Okay. Now, back in 2009, Mr. Kasprzyk, did the DEA have
03:49PM 16 particular drugs that it was interested in investigating?

03:49PM 17 A. I would say our focus in 2009 was predominantly cocaine,
03:49PM 18 crack cocaine, heroin. That was our general focus then.

03:49PM 19 Q. Would the DEA also investigate certain marijuana cases?

03:49PM 20 A. Yes, sir.

03:49PM 21 Q. Mr. Kasprzyk, do you know somebody named Joseph
03:49PM 22 Bongiovanni?

03:49PM 23 A. Yes.

03:49PM 24 Q. How do you know him?

03:49PM 25 A. At the time, in 2009, Joe was working for me as a special

03:49PM 1 agent.

03:49PM 2 Q. Do you remember when you first met the defendant?

03:49PM 3 A. I met Joe when he came to Buffalo. I had been in Buffalo

03:49PM 4 working as an agent. It was my understanding that Joe had

03:50PM 5 initially, after leaving agent school, Joe was down in

03:50PM 6 Florida, I believe Miami, and then came back up to Buffalo.

03:50PM 7 And that's when I first met Joe, when he came to Buffalo.

03:50PM 8 Q. At that point in time, do you remember how long you had

03:50PM 9 been in the Buffalo office?

03:50PM 10 A. I would say eight or nine years, arrived in Buffalo in

03:50PM 11 1989.

03:50PM 12 Q. Now you mentioned that you were the defendant's

03:50PM 13 supervisor at some point in time. Can you tell the jury,

03:50PM 14 when were you the defendant's supervisor?

03:50PM 15 A. I was the -- the -- his direct supervisor when I -- when

03:50PM 16 I was promoted as a group supervisor in the agent's group,

03:50PM 17 the Delta 57 group.

03:50PM 18 I was also, after -- after being a group supervisor for a

03:50PM 19 couple years, I was then promoted to the resident agent in

03:50PM 20 charge of the office. And at that point, I didn't directly

03:50PM 21 supervise Joe, but I managed the entire office.

03:51PM 22 Q. Can you describe for the jury, back in 2009, what was

03:51PM 23 your relationship with the defendant like?

03:51PM 24 A. It was a professional relationship. We -- we worked

03:51PM 25 together. I saw Joe frequently, every day. I would see Joe

1 as part of our day-to-day job working in DEA.

2 Q. Was he one of your personal friends?

3 A. No.

4 Q. Mr. Kasprzyk, around that time, was it typical for DEA
5 special agents to work with partners?

6 A. Yes.

7 Q. Do you recall anybody who was a partner with the
8 defendant?

9 A. Over the years, I mean, in that time period of 2009, I
10 believe he was working with a task force agent by the name of
11 Joe Palmieri.

12 Q. Mr. Kasprzyk, I want to move on and talk to you about
13 some of the duties and policies that DEA special agents were
14 expected to follow back in 2009.

15 Were there rules or policies about DEA special agents
16 signing people up to work as confidential sources?

17 A. Yes, sir.

18 Q. Can you describe for the jury what a confidential source
19 is?

20 A. A confidential source is someone that comes to the DEA
21 and works for the DEA as a cooperating individual, someone
22 that would actually be able to provide information on
23 drug-trafficking activities, or someone that you could use to
24 assist the DEA in purchasing narcotics as part of an
25 undercover operation to support a drug investigation.

1 Q. Were confidential sources an important part of DEA
2 casework?

3 A. Yes.

4 Q. Why?

5 A. Well, it's essential to get information about
6 drug-trafficking organizations. And in my time at the DEA,
7 the people who could best provide that information about a
8 drug-trafficking organization were often the people that were
9 involved with those drug-trafficking organizations. And so
10 confidential informants usually had that type of information,
11 and it was critical to the success of our mission at the DEA.

12 Q. Now, Mr. Kasprzyk, is a confidential source different
13 than a source of information as those terms are used at the
14 DEA?

15 A. There's a slight difference, yes.

16 Q. Can you describe that slight difference to the jury,
17 please?

18 A. A confidential informant is someone that is registered
19 with the DEA. So, we would get information from him, we
20 would actually have to give that individual a number so that
21 when we wrote a report and we would talk about that -- that
22 informant's information, we would refer to that person by
23 number only, not by his name or her name.

24 There's a vetting process that the DEA has to go
25 through when they sign up a confidential informant. So you

1 take your pictures, you take your fingerprints, you do a
2 debriefing form, and you have them sign various DEA documents
3 to ensure that they understand exactly what they're going to
4 be doing for the DEA.

5 Q. So let's focus in a little bit on some of the rules and
6 policies about signing somebody up to be a source.

7 First, can you just tell us, were there rules or policies
8 about signing somebody up to work as a confidential source?

9 A. Yes, there's DEA policy on signing up informants.

10 Q. Can you describe that policy for the jury?

11 A. Well, as I mentioned, you have to meet with them, you
12 have to take fingerprints, photographs. There are forms that
13 you have to complete, to include a DEA 473, that's a
14 cooperating individual form that they have to sign. There's
15 also a DEA 512, I believe, that would be another form that's
16 done to help establish that informant.

17 Q. Were there also forms that would need to be filled out if
18 you interacted with somebody who was a source of information
19 as opposed to a confidential source?

20 A. No. A source of information is treated differently. A
21 source of information may provide information about
22 drug-trafficking activities, but that person is not a
23 registered informant. That person cannot go out and act in
24 an undercover capacity for you or for the DEA.

25 Q. But if a source of information is providing information

03:55PM 1 about drug-trafficking activities like you just said, would
03:55PM 2 that kind of an interaction need to be documented by the DEA
03:55PM 3 special agent?
03:55PM 4 A. Yes, sir, it would.
03:55PM 5 Q. Was it important to document interactions that
03:55PM 6 somebody -- that a special agent had with a source of
03:56PM 7 information?
03:56PM 8 A. Yes.
03:56PM 9 Q. Why?
03:56PM 10 A. It's important to help document information so that we
03:56PM 11 could take that data and put that data into our case
03:56PM 12 management system, the DEA case management system, to -- to
03:56PM 13 just be able to use it for other investigations, or maybe the
03:56PM 14 investigation that was being started as a result of the
03:56PM 15 source's information.
03:56PM 16 Q. You told us that it's important to document interactions
03:56PM 17 with sources of information. Is it also important for DEA
03:56PM 18 special agents to document interactions with confidential
03:56PM 19 sources?
03:56PM 20 A. Yes, sir.
03:56PM 21 Q. Why?
03:56PM 22 A. In the DEA, when you meet with an informant, there are
03:56PM 23 rules on how those meetings go. You have to meet with them
03:56PM 24 with another agent. And afterwards, you have to record and
03:56PM 25 write down everything that the informant tells you.

03:56PM 1 Q. And why is that important?

03:56PM 2 A. Again, to -- to preserve the integrity of the

03:56PM 3 investigation, and to make sure that you're keeping an

03:57PM 4 accurate record of the conversations that you're having with

03:57PM 5 the informant.

03:57PM 6 Q. In one of your earlier answers, you told us that it was

03:57PM 7 protocol to identify a confidential source by a number as

03:57PM 8 opposed to their name. Why was that the protocol as you

03:57PM 9 understood it?

03:57PM 10 A. There -- there are DEA policy rules, as it relates to the

03:57PM 11 confidentiality of informants. And, so, those rules -- to

03:57PM 12 follow those rules, it's important that we number the

03:57PM 13 informant and refer to that informant only by number to

03:57PM 14 ensure confidentiality.

03:57PM 15 Q. Mr. Kasprzyk, were there policies or rules that at the

03:57PM 16 DEA about using personal friends as confidential sources?

03:57PM 17 A. Yes.

03:57PM 18 Q. What were those rules?

03:57PM 19 A. The rules were you should not sign up friends as

03:57PM 20 confidential informants.

03:57PM 21 Q. As you understood it, why was that the policy?

03:57PM 22 A. That was the policy because it would create a conflict of

03:58PM 23 interest between the agent and the friend.

03:58PM 24 Q. If you learned that a special agent had signed up a

03:58PM 25 personal friend as a confidential source, as the supervisor,

03:58PM 1 what would you do?

03:58PM 2 A. I would not allow that to happen. I would move the
03:58PM 3 informant, you know, the control of the informant, I would
03:58PM 4 move the control of the informant to another agent in the
03:58PM 5 office.

03:58PM 6 Q. Mr. Kasprzyk, I want to move on and talk about a
03:58PM 7 particular incident that occurred in 2009.

03:58PM 8 **MR. DICKSON:** I'd like to show the witness only
03:58PM 9 Government Exhibit 30A, please.

03:58PM 10 **BY MR. DICKSON:**

03:58PM 11 Q. Can you see that okay, sir?

03:58PM 12 A. I can now, yes.

03:58PM 13 Q. Great. Do you recognize this document that you see on
03:58PM 14 your screen?

03:58PM 15 A. Yes, sir.

03:58PM 16 Q. Generally, what is it?

03:59PM 17 A. This is a DEA-6, which is a report of investigation.
03:59PM 18 That's what we call reports in the DEA, we call them a DEA-6.
03:59PM 19 They're put on a DEA-6 form.

03:59PM 20 Q. We'll talk more about what's in the form in just a
03:59PM 21 second, Mr. Kasprzyk.

03:59PM 22 A. Yes, sir.

03:59PM 23 Q. Can you just tell us who's the author of this form?

03:59PM 24 A. It was written by Special Agent Joseph Bongiovanni.

03:59PM 25 Q. And have you seen this form before?

03:59PM 1 A. Yes.

03:59PM 2 Q. Is it a fair and accurate copy of this DEA-6 as you've
03:59PM 3 seen it originally?

03:59PM 4 A. Yes, sir.

03:59PM 5 **MR. DICKSON:** Your Honor, at this time, the
03:59PM 6 government moves 30A into evidence.

03:59PM 7 **MR. SINGER:** No objection.

03:59PM 8 **THE COURT:** Received without objection.

03:59PM 9 **(GOV Exhibit 30A was received in evidence.)**

03:59PM 10 **MR. DICKSON:** Can we publish to the jury, please?

03:59PM 11 **THE COURT:** You may.

03:59PM 12 **MR. DICKSON:** Thank you.

03:59PM 13 **THE CLERK:** You're all set.

03:59PM 14 **MR. DICKSON:** Thank you.

03:59PM 15 **BY MR. DICKSON:**

03:59PM 16 Q. Mr. Kasprzyk, as the jury is looking at Government
03:59PM 17 Exhibit 30A, can you explain generally what this form is?

03:59PM 18 A. Yes, sir. This is a report of investigation form,
04:00PM 19 commonly known as the DEA-6 within the DEA agency. This form
04:00PM 20 is used when agents need to document and record the results
04:00PM 21 of an interview or maybe some sort of investigative activity
04:00PM 22 that they need to add to their case file.

04:00PM 23 Q. Is this kind of form made all the time by DEA special
04:00PM 24 agents?

04:00PM 25 A. Yes, sir.

04:00PM 1 Q. Now you told us that the defendant was the author of this
04:00PM 2 document. If you look in box number 8 there, what was the
04:00PM 3 date that this form was prepared?

04:00PM 4 A. November 6th, 2009.

04:00PM 5 Q. And then if we look in box number 9, it says other
04:00PM 6 officers. Who are the other officers listed there?

04:00PM 7 A. G.S. Kasprzyk, FBI G.S. James Jancewicz, and USPO Peter
04:01PM 8 Lepiane.

04:01PM 9 Q. Why do other officers get listed on DEA-6 forms like
04:01PM 10 this?

04:01PM 11 A. Typically, other officers are listed when they have some
04:01PM 12 involvement with the investigation.

04:01PM 13 Q. Let's look at the form -- or, excuse me, the box that
04:01PM 14 says file number up at the top. File number, box 3.

04:01PM 15 A. Yes, sir.

04:01PM 16 Q. What does a file number indicate?

04:01PM 17 A. That is the particular case investigation that is
04:01PM 18 referenced for the 6.

04:01PM 19 Q. And is that file number or is a file number listed on
04:01PM 20 every DEA-6 form that gets filled out?

04:01PM 21 A. Yes, sir.

04:01PM 22 Q. And then let's look at box number 4, please.

04:01PM 23 So Mr. Kasprzyk, can you tell the jury what box number 4
04:02PM 24 says and what that means?

04:02PM 25 A. That's a G-DEP identifier.

04:02PM 1 Q. What is a G-DEP identifier?

04:02PM 2 A. That is an classification, internal classification system
04:02PM 3 that DEA uses to classify and code every investigation that's
04:02PM 4 being conducted.

04:02PM 5 Q. Let's go to box number 6, please.

04:02PM 6 Box number 6 says file title. What's the name that's
04:02PM 7 listed there?

04:02PM 8 A. It's Matthew Scalia.

04:02PM 9 Q. Mr. Kasprzyk, is the name that is listed as the file
04:02PM 10 title, is that always the main target of the investigation?

04:02PM 11 A. Typically, yes.

04:02PM 12 Q. But is it always the main target?

04:02PM 13 A. Yes.

04:02PM 14 **MR. DICKSON:** We can go down to the bottom of the
04:03PM 15 page there. Let's zoom in on boxes 12, 13, 14, and 15,
04:03PM 16 please.

04:03PM 17 **BY MR. DICKSON:**

04:03PM 18 Q. So at the bottom of this page here, Mr. Kasprzyk, whose
04:03PM 19 name is listed in the box 12, the signature box?

04:03PM 20 A. Special Agent Joseph Bongiovanni.

04:03PM 21 Q. What does it indicate to you that Mr. Bongiovanni's name
04:03PM 22 is listed in that box number 12 there?

04:03PM 23 A. That he would have prepared that DEA-6.

04:03PM 24 Q. Below that, in the box below, whose name is listed?

04:03PM 25 A. Dale Kasprzyk, group supervisor.

04:03PM 1 Q. And that's you, right?

04:03PM 2 A. Yes, sir.

04:03PM 3 Q. Okay. Why is your name in that box?

04:03PM 4 A. I would have been the supervisor that would have reviewed
04:03PM 5 the report and signed it.

04:03PM 6 Q. Is that your signature there?

04:03PM 7 A. Yes, sir.

04:03PM 8 Q. Why does a supervisor have to sign off on a DEA-6?

04:03PM 9 A. It is DEA policy for the DEA supervisor to review every
04:04PM 10 report of investigation that's submitted by agents.

04:04PM 11 **MR. DICKSON:** We can take the zoom off, please.

04:04PM 12 **BY MR. DICKSON:**

04:04PM 13 Q. Now, Mr. Kasprzyk, when you sign a form like this, are
04:04PM 14 you --

04:04PM 15 **MR. DICKSON:** Oh, I'm sorry, can we leave the exhibit
04:04PM 16 up, please? Thank you.

04:04PM 17 **BY MR. DICKSON:**

04:04PM 18 Q. When you sign a form like this, are you as the supervisor
04:04PM 19 independently verifying every single fact that is in this
04:04PM 20 form?

04:04PM 21 A. No, sir.

04:04PM 22 Q. Why not?

04:04PM 23 A. Well, it would be impossible for me to do that. I'm
04:04PM 24 relying upon the agent's report to provide me the information
04:04PM 25 that I need to look at and to review. I wouldn't be able to

1 go out and independently verify everything that every agent
2 or task force agent does in the office.

3 Q. Whose job was it to make sure that the details included
4 in this report were accurate and truthful?

5 A. The author of the report, S.A. Bongiovanni.

6 Q. I want to move now to the details section of the report,
7 Mr. Kasprzyk. Do you see that there?

8 A. Yes, sir.

9 Q. I want to start with paragraph 2, please.

10 Can you please read the first three sentences of
11 paragraph 2 for the jury?

12 A. On November 1st, 2009, S.A. Joseph Bongiovanni received a
13 telephone call from Peter G. Gerace. Gerace has acted as a
14 confidential source, and has been able to provide information
15 regarding individuals in this case file and other narcotic
16 investigation in the past. It should be known that Gerace is
17 presently on federal parole and supervised release.

18 Q. Mr. Kasprzyk, who did the defendant identify as a former
19 DEA confidential source in that paragraph?

20 A. Peter G. Gerace.

21 Q. Earlier you said that it was DEA policy to identify
22 confidential sources by number as opposed to by name. Was
23 Mr. Gerace identified by number or by name in this report?

24 A. By name.

25 Q. Can you go ahead and read the rest of the paragraph,

04:06PM 1 please?

04:06PM 2 A. At this time, Gerace advised S.A. Bongiovanni that United
04:06PM 3 States Probation Officer Peter Lepiane and agents of the FBI
04:06PM 4 initiated a search of Pharaoh's Gentlemen's Club located at
04:06PM 5 23 Aero Drive in Cheektowaga, New York on or about
04:06PM 6 October 31st, 2009. It should be known that Gerace is
04:06PM 7 associated with Pharaoh's Gentlemen's Club.

04:06PM 8 Q. At the time of this report, Mr. Kasprzyk, did you know
04:06PM 9 what Pharaoh's Gentlemen's Club was?

04:06PM 10 A. I did.

04:07PM 11 Q. In that last sentence with the parenthesis there, the
04:07PM 12 defendant talks about Peter Gerace being associated with
04:07PM 13 Pharaoh's Gentlemen's Club. Do you know how the defendant
04:07PM 14 knew that Peter Gerace was associated with Pharaoh's
04:07PM 15 Gentlemen's Club?

04:07PM 16 A. I'm not sure how he knew about Gerace's relationship with
04:07PM 17 Pharaoh's. I -- I'm not sure.

04:07PM 18 Q. Was there ever a point, Mr. Kasprzyk, when the defendant
04:07PM 19 disclosed to you whether he was personal friends with Peter
04:07PM 20 Gerace?

04:07PM 21 A. He told me that he knew Gerace from years past in the
04:07PM 22 neighborhood, but did not disclose with me that he was
04:07PM 23 personal friends with Gerace.

04:07PM 24 Q. Let's go to paragraph 3, please. Can you read
04:07PM 25 paragraph 3 for the jury, please, Mr. Kasprzyk?

04:07PM 1 A. Gerace advised S.A. Bongiovanni that he was administered
04:08PM 2 a urine test to detect the presence of narcotics in his
04:08PM 3 urine.

04:08PM 4 Gerace advised S.A. Bongiovanni that he failed the urine
04:08PM 5 test due to the presence of trace amounts of cocaine detected
04:08PM 6 in his urine.

04:08PM 7 Gerace advised S.A. Bongiovanni that he believed he had
04:08PM 8 now violated his term of supervised release.

04:08PM 9 Gerace stated that he was prepared to offer information
04:08PM 10 regarding individuals who are trafficking in narcotics in the
04:08PM 11 Buffalo area.

04:08PM 12 Gerace stated he wanted to offer this information in lieu
04:08PM 13 of consideration on this pending supervised release violation
04:08PM 14 due to the failed urine test.

04:08PM 15 Q. Mr. Kasprzyk, the sentence that says Gerace stated that
04:08PM 16 he was prepared to offer information regarding individuals
04:08PM 17 who are trafficking in narcotics, what did you understand
04:08PM 18 that statement to mean?

04:08PM 19 A. It was my impression that Gerace wanted to become a
04:09PM 20 confidential informant, work for the DEA, in exchange for
04:09PM 21 some sort of consideration for his supervised release
04:09PM 22 violation.

04:09PM 23 Q. Was information about individuals who are trafficking in
04:09PM 24 narcotics in the Buffalo area something that the DEA would
04:09PM 25 have been interested in investigating in 2009?

04:09PM 1 A. Yes, sir.

04:09PM 2 **MR. DICKSON:** Let's go to the second page, please, of
04:09PM 3 this exhibit. And if we can zoom in on paragraph 4.

04:09PM 4 **BY MR. DICKSON:**

04:09PM 5 Q. Can you read that paragraph for the jury?

04:09PM 6 A. On November 2nd, 2009, Gerace arrived at the DEA Buffalo
04:09PM 7 resident office and spoke briefly to S.A. Bongiovanni.

04:09PM 8 Gerace stated that he knew significant cocaine
04:09PM 9 traffickers capable of moving kilo quantities of cocaine out
04:09PM 10 of various distribution houses located in the North Buffalo
04:10PM 11 and South Buffalo areas.

04:10PM 12 Gerace stated that he would not offer additional
04:10PM 13 information until he received a good-faith commitment from
04:10PM 14 USPO Lepiane that he would receive consideration on his
04:10PM 15 violation in lieu of information he is willing to provide.

04:10PM 16 Q. First, Mr. Kasprzyk, where it said that Gerace knew
04:10PM 17 significant cocaine traffickers capable of moving kilo
04:10PM 18 quantities of cocaine, what does "kilo quantities" mean?

04:10PM 19 A. A kilo is a kilogram of cocaine, 2.2 pounds.

04:10PM 20 Q. Earlier you mentioned that back in 2009, the DEA was
04:10PM 21 interested in investigating cases involving cocaine. Based
04:10PM 22 on what you read and reviewed in this paragraph, would
04:10PM 23 Mr. Gerace have been somebody who could have provided
04:10PM 24 valuable information in a drug investigation?

04:10PM 25 A. Yes.

Q. Mr. Kasprzyk, did you ever get any indication from the defendant about how he knew -- or, excuse me, any indication from the defendant that he had asked Peter Gerace how he knew these significant cocaine traffickers?

A. No, not -- not that I'm aware of, no.

MR. DICKSON: Let's go to paragraph 5, please.

BY MR. DICKSON:

Q. Can you read that for the jury?

A. Later on that same date, S.A. Bongiovanni reported this information to G.S. Kasprzyk of the Buffalo resident office.

G.S. Kasprzyk contacted FBI G.S. James Jancewicz to better understanding the FBI's interest in Gerace, as well as their participation in the search at the Pharaoh's club.

FBI G.S. Jancewicz said that the FBI was very interested in interviewing Gerace on various issues regarding the Pharaoh's club and other FBI investigations.

Q. Who is G.S. Jancewicz?

A. G.S. Jancewicz is Jim Jancewicz. He is the group supervisor, or was the group supervisor of the FBI drug task force.

Q. Why did you call G.S. Jancewicz after the defendant shared this information with you?

A. Well, it was clear from my conversations with Joe Bongiovanni that -- that the FBI was involved in the investigation of Pharaoh's, and that under those

04:12PM 1 circumstances, with the FBI having significant interest in
04:12PM 2 that -- that location as well as Mr. Gerace, it was important
04:12PM 3 for us as an agency to work cooperatively with the FBI and
04:12PM 4 share with them what we -- what we potentially knew from
04:12PM 5 Mr. Gerace.

04:12PM 6 Q. Why was it important for agencies to share information?

04:12PM 7 A. Because in -- in drug investigations, it's important to
04:13PM 8 share and deconflict so that we are all working in the same
04:13PM 9 direction when it comes to case investigations.

04:13PM 10 Q. Can you explain to the jury what it means to deconflict?

04:13PM 11 A. Yes, sir. Deconfliction is the process by which all
04:13PM 12 federal agencies work towards ensuring that we are not
04:13PM 13 targeting individuals and working on the same individuals,
04:13PM 14 same targets of investigation, without each other's
04:13PM 15 knowledge.

04:13PM 16 That's important when you're conducting undercover
04:13PM 17 operations. If we all have similar targets, we want to make
04:13PM 18 sure that we're not creating a blue-on-blue situation when
04:13PM 19 we're out there doing undercover operations.

04:13PM 20 So we create a deconfliction process to ensure that
04:13PM 21 everyone understands what each other is doing.

04:13PM 22 Q. Mr. Kasprzyk, after you spoke to G.S. Jancewicz, what, if
04:13PM 23 anything, did you say to the defendant about that
04:14PM 24 conversation?

04:14PM 25 A. I explained to Joe that the FBI is interested in working

1 with Gerace, and would like to talk with him, and that Joe
2 should follow up with the FBI and ensure that that occurs.

3 Q. If the FBI had not been interested in working with Peter
4 Gerace, what would you as the supervisor have expected the
5 defendant to do with Peter Gerace?

6 A. So, this particular individual was on federal parole or
7 supervised release. And to be able to work with that
8 individual as a confidential informant, we would have to
9 receive appropriate -- appropriate approvals from the Court
10 to be able to make that happen.

11 Q. So are you saying that you would have expected the
12 defendant to try to work with Peter Gerace as a confidential
13 source or informant?

14 A. If that was something that we could work out with the
15 United States Probation Office, as well as the U.S.
16 Attorney's Office, as well as the judge that was responsible
17 for his supervised release.

18 Q. And even if it wasn't possible to do that, Mr. Kasprzyk,
19 would the DEA have been interested in investigating Peter
20 Gerace or Pharaoh's Gentlemen's Club?

21 A. Yes, sir.

22 **MR. DICKSON:** Can we move to paragraph 6, please?

23 **BY MR. DICKSON:**

24 Q. Can you go ahead and read that, please, sir?

25 A. G.S. Kasprzyk instructed S.A. Bongiovanni to set up an

1 interview with Gerace and FBI agents in the near future.

2 S.A. Bongiovanni has contacted the FBI Buffalo office,
3 and plans are being formulated for this meeting.

4 S.A. Bongiovanni has contacted USPO Lepiane, and informed
5 him of Gerace's willingness to cooperate with DEA and FBI in
6 lieu of consideration on penalties pending due to his
7 violation of supervised release.

8 USPO Lepiane stated that he would discuss this issue with
9 AUSA Anthony Bruce, and would later advise.

10 Q. Mr. Kasprzyk, did the defendant ever tell you that he had
11 set up an interview between Mr. Gerace and the FBI?

12 A. He did not.

13 Q. Do you know whether that interview ever happened?

14 A. I do not --

15 Q. I'm sorry, go ahead.

16 A. -- I do not know if that happened.

17 Q. Did the defendant ever ask you, as his supervisor, to
18 sign off on a DEA-6 about any kind of meeting that the
19 defendant had between Mr. Gerace and the FBI?

20 A. Not that I can recall.

21 Q. As far as you're aware, Mr. Kasprzyk, did the defendant
22 ever recuse himself from any kind of investigation or work
23 involving Mr. Gerace?

24 A. No, sir.

25 Q. Anywhere in this document that we just looked at,

04:17PM 1 Mr. Kasprzyk, did the defendant include a way for others to
04:17PM 2 contact Mr. Gerace if they needed to in the future?

04:17PM 3 A. No.

04:17PM 4 Q. During this time, 2009, did the DEA special agents in
04:17PM 5 your group have weekly meetings with each other?

04:17PM 6 A. Yes, sir.

04:17PM 7 Q. Why?

04:17PM 8 A. That was a meeting that was conducted at my direction.
04:17PM 9 And the purpose of that meeting was for me to get together
04:17PM 10 with all of the agents and task force agents on a weekly
04:17PM 11 basis and have them talk amongst themselves and with me on
04:17PM 12 the status of their current investigations and any new
04:17PM 13 investigations that they might have forthcoming.

04:17PM 14 Q. And why did you think that it was important for agents to
04:17PM 15 share investigations that they were working on?

04:17PM 16 A. We talked about deconfliction earlier. Deconfliction
04:17PM 17 also occurs within the DEA office. There needs to be some
04:18PM 18 level of assurance that everyone within my group, within the
04:18PM 19 group Delta 57, as well as other agents in the office, knew
04:18PM 20 what each other were doing. So it was an opportunity for us
04:18PM 21 to talk and share notes about cases, and see if there's ways
04:18PM 22 that we could work with each other to make the case go
04:18PM 23 better.

04:18PM 24 Q. Around this time, Mr. Kasprzyk, from this report, do you
04:18PM 25 recall the defendant ever mentioning any meeting that he had

04:18PM 1 with Peter Gerace and the FBI?

04:18PM 2 A. Not that I recall, no.

04:18PM 3 Q. Do you recall the defendant ever mentioning that he had
04:18PM 4 passed Peter Gerace off to the FBI for them to work as a
04:18PM 5 source?

04:18PM 6 A. No, sir.

04:18PM 7 Q. Mr. Kasprzyk, as far as you're aware, was Peter Gerace
04:18PM 8 ever signed up as an official confidential source for the
04:18PM 9 DEA?

04:18PM 10 A. Not that I'm aware of, no.

04:18PM 11 Q. As far as you're aware, Mr. Kasprzyk, did the defendant
04:18PM 12 ever use Peter Gerace as a confidential source?

04:19PM 13 A. Not that I'm aware of, no, sir.

04:19PM 14 Q. Mr. Kasprzyk, when was the last time that you spoke to
04:19PM 15 the defendant?

04:19PM 16 A. It would have been right after he retired. And I'm gonna
04:19PM 17 say maybe 2019. About five years ago.

04:19PM 18 Q. Was that a telephone call?

04:19PM 19 A. Yes.

04:19PM 20 Q. Can you describe what the defendant said to you on that
04:19PM 21 telephone call?

04:19PM 22 A. Joe was looking for a job. And we talked about him
04:19PM 23 potentially working at M&T Bank. And I referred him to a
04:19PM 24 contractor that I knew that was hiring retired law
04:19PM 25 enforcement officials. And I referred him to that agency to

1 apply for and see if he could get a job with them.

2 Q. During that conversation, Mr. Kasprzyk, did the defendant
3 bring up the criminal investigation into himself?

4 A. He did.

5 Q. What did he say?

6 A. He seemed very concerned and, you know, said to me that
7 that, you know, he didn't do anything wrong and he felt, you
8 know, unfairly targeted, and he -- he seemed concerned.

9 Q. Did he name anybody in particular during that piece of
10 the conversation?

11 A. He talked about an agent from Buffalo, Tony Casullo. He
12 mentioned Tony Casullo.

13 Q. What did he say about Mr. Casullo?

14 A. He felt like Tony Casullo had it out for him, and had
15 targeted him, and that might be, you know, causing him
16 problems.

17 Q. How did you respond?

18 A. I listened. I was sympathetic. I don't really know Tony
19 Casullo all that well. He came to Buffalo after I had
20 retired, so I don't have a lot of background on Tony.

21 **MR. DICKSON:** Just a moment, sir.

22 Judge, I have no more questions.

23 **THE COURT:** Cross-examination?

24 (Cross-examination from 4:21 p.m. to 5:00 p.m.)

25 **THE COURT:** Okay. Redirect?

05:00PM 1 **MR. DICKSON:** Yes, Judge. I promise just a couple
05:01PM 2 more minutes, sir.

05:01PM 3 May I proceed?

05:01PM 4 **THE COURT:** You may, yeah.

05:01PM 5
05:01PM 6 **REDIRECT EXAMINATION BY MR. DICKSON:**

05:01PM 7 Q. Mr. Kasprzyk, Mr. Singer asked you some questions about,
05:01PM 8 I think, drug investigation priorities during his
05:01PM 9 cross-examination; do you remember that?

05:01PM 10 A. I do, sir.

05:01PM 11 Q. Were 1,000 kilogram marijuana conspiracies a priority for
05:01PM 12 the DEA back in -- between 2009 and 2013 when you left?

05:01PM 13 A. Yes, that would be a priority.

05:01PM 14 Q. What about if there was a 100-plant marijuana grow
05:01PM 15 somewhere in the Buffalo area, would that have been a
05:01PM 16 priority?

05:01PM 17 A. It wouldn't rise to the level of a priority, but it would
05:01PM 18 be something that we would take a look at, yes.

05:01PM 19 Q. What about kilogram-level dealers of cocaine?

05:01PM 20 A. That's a priority for sure.

05:01PM 21 Q. Mr. Singer also asked you that when you review DEA-6s,
05:01PM 22 whether you're reviewing things in the report to make sure
05:01PM 23 they're accurate; do you remember him asking you that?

05:02PM 24 A. I do.

05:02PM 25 Q. Did you independently verify the accuracy of every single

1 fact included in every single DEA-6 that you reviewed?

2 A. I did not, and I do not, no.

3 Q. Why not?

4 A. Sir, because I need to trust that the agents who are
5 preparing those 6s are providing me accurate information.
6 Accurate and honest information.

7 **MR. DICKSON:** Ms. Champoux, can we pull up Government
8 Exhibit 30A, please? It's already in evidence. And if we can
9 zoom in to paragraph 2.

10 **BY MR. DICKSON:**

11 Q. Mr. Kasprzyk, Mr. Singer also asked you after you read
12 this, this paragraph again, that if Mr. Gerace had presently
13 been a confidential source as far as you knew, that you would
14 have sent this report back to the defendant; do you remember
15 that?

16 A. Correct.

17 Q. That sentence says Gerace --

18 **MR. SINGER:** Judge, I'm going to object to the last
19 question, it just misstated and mischaracterized the
20 testimony.

21 **THE COURT:** Yeah, sustained.

22 **MR. DICKSON:** Understood.

23 **BY MR. DICKSON:**

24 Q. Mr. Kasprzyk, that sentence that says Gerace has acted as
25 a confidential source; do you see that sentence there?

05:03PM 1 A. Yes, sir.

05:03PM 2 Q. Now did you verify whether or not Mr. Gerace had ever
05:03PM 3 acted as a DEA source independently?

05:03PM 4 A. No, sir.

05:03PM 5 Q. Why not?

05:03PM 6 A. Again, because I was trusting what Joe was writing to be
05:03PM 7 true and accurate when I read it.

05:03PM 8 **MR. DICKSON:** Thank you, sir.

05:03PM 9 Your Honor, I have no questions.

05:03PM 10 **THE COURT:** Anything more?

05:03PM 11 **MR. SINGER:** Yes.

05:05PM 12 (Recross examination from 5:03 p.m. to 5:05 p.m.)

05:05PM 13 **MR. DICKSON:** Nothing further, Judge.

05:05PM 14 **THE COURT:** Okay. You can step down, sir.

05:05PM 15 **THE WITNESS:** Thank you.

05:05PM 16 (Witness excused at 5:05 p.m.)

17 (Excerpt concluded at 5:05 p.m.)

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CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on February 15, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.